



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Steve Mitchell  
Appl. No.: 10/685,011  
Confirm. No.: 4285  
Filed: October 14, 2003  
Title: Artificial Vertebral Disk Replacement Implant with a  
Spacer and Method

PATENT APPLICATION

Art Unit: 3738  
Examiner: Unknown

Customer No. 23910

**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8**

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\_\_\_\_\_  
(Attorney Signature)

Sheldon R. Meyer, Reg. No. 27,660  
Signature Date: 3/19/04

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 CFR §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

***Enclosed with this statement are the following:***

- ☒ Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with MPEP §609.
- ☒ The present application is being/was filed after June 30, 2003. In accordance with the pre-Official Gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at [pac/dapp/opla/preognotice/idswouscopies.htm](http://pac/dapp/opla/preognotice/idswouscopies.htm), copies of cited U.S. patents and publications are not enclosed. Copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 C.F.R. §1.98(a)(2), as still required.
- ☐ The present application was filed prior to June 30, 2003. A copy of each cited document as required by 37 C.F.R. §1.98 is enclosed.

***This statement should be considered because:***

☒ **37 CFR §1.97(b).** This statement qualifies under 37 CFR §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under §1.53(d);

-- OR --

- (2) It is being filed within 3 months of entry of a national stage;  
-- OR --  
(3) It is being filed before the mailing date of the first Office Action on the merits,  
-- OR --  
(4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 CFR §1.114.

\_\_\_ **37 CFR §1.97(c).** Although it may not qualify under subsection (b), this statement qualifies under 37 CFR §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (check at least one of the following) --

- \_\_\_ (1) It is accompanied by a STATEMENT as set forth in 37 CFR §1.97(e).  
-- OR --  
\_\_\_ (2) It is accompanied by the \$180 fee set forth in 37 CFR §1.17(p).

\_\_\_ **37 CFR §1.97(d).** Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 CFR §1.97, subsection (d) because:

- (1) It is being filed on or before payment of the issue fee;  
-- AND --  
(2) It is accompanied by a STATEMENT as set forth in 37 CFR §1.97(e);  
-- AND --  
(3) It is accompanied by the \$180 fee set forth in 37 CFR §1.17(p).

X **Fee Authorization.** The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 06-1325.

Respectfully submitted,

Date: \_\_\_\_\_

3/19/04

By: \_\_\_\_\_

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**INFORMATION DISCLOSURE CITATION  
BY APPLICANT**

(Use several sheets if necessary)

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Applicant

Steve Mitchell

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<b>FORM PTO-1449</b> (Substitute) <b>INFORMATION DISCLOSURE CITATION</b> <b>BY APPLICANT</b> (Use several sheets if necessary)	US DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		Attorney Docket Number <b>KLYCD-05010US1</b>	Serial No. <b>10/685,011</b>
	Applicant <b>Steve Mitchell</b>			
	Filing Date <b>October 14, 2003</b>		Group Art Unit <b>3738</b>	

FOREIGN PATENT DOCUMENTS						
Examiner Initial		Document Number	Publication Date	Country	Translation	
					Yes	No
	1.	01/01893 A1	1/11/2001	WO	X	
EXAMINER			DATE CONSIDERED			
EXAMINER: Initial if references considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.						
*1 = Copy not submitted because it was submitted in prior application / , filed , 20 , and relied upon under 35 USC §120.						